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PROJECT NO. 51871

REVIEW OF THE ERCOT SCARCITY
PRICING MECHANISM

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PUBLIC UTILITY COMMISSION
OF TEXAS

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COMMENTS OF EXELON GENERATION COMPANY, LLC

Exelon Generation Company, LLC (“Exelon”)¹ respectfully files these Comments with the Public Utility Commission of Texas (“Commission” or “PUC”) responding to the Commission’s Proposal of Amendments to 16 Texas Administrative Code (TAC) §25.505 regarding the low system-wide offer cap (“LCAP”).

Exelon’s previous comments filed in this docket recommended that the Commission take a holistic approach to changes to protocols and market design. Exelon appreciates the Commission’s desire to make more immediate changes to the LCAP. However, based on its belief that a holistic approach is needed, Exelon reserves the right to modify any positions taken in this proceeding, based upon future proposals.

BACKGROUND AND INTRODUCTION

During a historic winter storm during the week of February 14, the Commission ordered ERCOT to administratively set energy prices to the high system-wide offer cap (HCAP) specified in 16 Tex. Admin. Code § 25.505(g)(6)(B) of \$9,000 per MWh. After crossing the peaker net margin (PNM) threshold of three times the cost of new entry of new generation plants, the system-

¹ Exelon Generation Company, LLC, through subsidiaries, owns 3,620 MWs of gas-fired capacity and 87 MWs of wind power in Texas. Exelon’s subsidiary, Constellation New Energy, Inc., also provided approximately 14 TWh of competitive retail supply to residential and commercial/industrial load in 2020. Exelon Generation Company, LLC also provides wholesale supply to a number of Texas cooperatives and municipalities.

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wide offer cap is to be set at the low system-wide offer cap (LCAP), which is the greater of \$2,000 per MWh and \$2,000 per MW per hour or 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.² As a result of the administrative price-setting, the PNM threshold was crossed during the winter storm, putting the LCAP in place for the remainder of the year.³

The Commission previously accepted comments in this Project regarding potential changes to the LCAP,⁴ and received comments from a number of parties, including Exelon.⁵ Following those comments and the issuance of a Staff Memorandum⁶, the Commission proposed to modify the LCAP by eliminating the tie to the natural gas price index and replacing it with a provision designed to ensure that “resource entities are able to recover their actual marginal costs in scarcity pricing situations”.⁷ Specifically, the Commission put forward the following changes to the LCAP:

² 16 Tex. Admin. Code 25.505(g)(6).

³ ERCOT informed the PUCT that it was approaching the PNM threshold, and the PUCT suspended the use of the LCAP. The PUCT reinstated the LCAP on March 3, 2021. *Issues Related to the State of Disaster For the February 2021 Winter Weather Event*, Docket No. 51812, “Order Reinstating Low system-Wide Offer Cap (Order March 3, 2021).

⁴ “Request For Comments on the Low System-Wide Offer Cap”, (March 8, 2021).

⁵ Comments and/or Reply Comments were filed by Exelon; ERCOT; Potomac Economics; the Texas Coalition For Affordable Power; Texas Public Power Association, Texas Electric Cooperatives, Inc.; NRG Energy, Inc; Vistra Corp.; South Texas Electric Cooperative, Inc.; Calpine Corporation; Texas Solar Power Association; Texas Industrial Energy Consumers; and OPUC.

⁶ Memorandum, “Re May 6, 2021 Open Meeting, Agenda Item No. 8, Project No. 51871 – *Review of the ERCOT Scarcity Pricing Mechanism*” (April 29, 2021).

⁷ “Proposal For Publication of Amendments to §25.565 As Approved At the May 6, 2021 Open Meeting” (May 6, 2021).

(6) **System-Wide Offer Caps.**

(A) The low system-wide offer cap (LCAP) will be set ~~at on a daily basis at the greater of:~~

~~(i) — \$2,000 per MWh and \$2,000 per MW per hour, or~~

~~(ii) — 50 times the natural gas price index value determined by ERCOT, expressed in dollars per MWh and dollars per MW per hour.~~

(7) Reimbursement for Operating Losses During an Event when the LCAP is in Effect. During an event when the system-wide offer cap is set to the LCAP, ERCOT must reimburse resource entities for any actual marginal costs in excess of real-time revenues. ERCOT must utilize existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.

RECOMMENDATIONS

Although the Commission indicated that the goal of new subparagraph (7) was to provide resources with adequate compensation during times of scarcity, Exelon recommends additional modifications to clarify the type of costs that are recoverable, and the periods during which those costs are recoverable.

1. Define “event”.

As written, recovery of costs would apply “[d]uring an event when the system-wide offer cap is set to the LCAP.” However, “event” itself is not defined, which leaves tremendous uncertainty to resource entities as to whether requests for reimbursement of costs will be granted.

It is crucial that this certainty is granted, both for the benefit of resources who will be seeking recovery, and for market participants more broadly.

Exelon recommends that there be objective criteria established in the rule to govern the periods during which costs are recoverable. Specifically, Exelon recommends that “event” refer to period during which ERCOT has issued an Operating Condition Notice (OCN) or Energy Emergency Alert (EEA). Both an OCN and an EEA are: (a) issued in anticipation of, or during, an emergency condition on the electric grid; (b) published market-wide to resources, and publicly available on ERCOT’s website; and (c) have a defined starting time, as well as a defined ending time according to their initial terms, or subsequent ERCOT market notice. An OCN is “[t]he first of four levels of communication issued by ERCOT in anticipation of a possible Emergency Condition”⁸⁸, while an EEA is an Energy Emergency Alert⁹, with procedures that may be used when operating reserves drop below specified levels.¹⁰

Providing the incentive for full preparations in advance of an emergency increases the reliability of the system and potentially avoids the emergency itself. Providing reimbursement for operating losses in advance of an actual emergency encourages resources to purchase fuel during the small window of fuel market liquidity, if they have not already done so, and incentivizes plants to step up preparations for emergency operations. Limiting recovery to periods when the system is under an EEA or, worse, in the midst of an extended period of firm load shed, can actually **create** an emergency and raise costs by discouraging resources from procuring fuel in advance, in the hopes that a crisis will be averted and fuel prices will fall.

⁸⁸ ERCOT Glossary, <http://www.ercot.com/glossary/>.

⁹ *Id.*

¹⁰ http://www.ercot.com/content/wcm/lists/219692/EEA_Tools_One_Pager_Winter_2021_2-13-2021.pdf.

2. Remove limitation to when LCAP is in Effect.

The proposed rule change currently only applies to situations when the LCAP is in effect but, as demonstrated from Winter Storm Uri, emergency situations do not only occur when the LCAP is in effect. In the beginning of the week of Winter Storm Uri, the high system-wide offer cap (HCAP) was in effect. Based on extreme fuel costs, overtime costs, equipment needs, etc., it is not hard to imagine resources operating at a loss, every single one of those resources which was needed to serve customers during extreme conditions. Revenue shortfalls from operations in preparation or during an emergency are no less meaningful to the resource, or to the market, because they occur while the HCAP is in effect.

3. Reimburse Reasonably and Prudently Incurred Operating Costs.

The heading of subparagraph (7) indicates that it is intended to apply to “Operating losses”; however, the body of the subparagraph refers to “marginal costs in excess of real-time revenues.” Exelon believes that it is more appropriate to compensate for “reasonably and prudently incurred operating costs” exceeding revenues rather than merely “marginal costs” that exceed revenues, for several reasons. First, resources may still be operating at a loss if only marginal costs are recoverable. Additionally, it is unclear whether “marginal costs” includes all cost/expense categories that may be needed to effectively operate. Finally, changing “marginal costs” to “reasonably and prudently incurred operating costs” also provides clarity that supply chain or other purchases made during an Event, but not reasonably related to operations during the Event, will not be recoverable.

4. Recommended Language Changes.

Based on the foregoing, Exelon suggests modifications to the Commission's proposed new subparagraph (7), as reflected below.

(7) Reimbursement for Operating Losses During an Event ~~when the LCAP is in Effect.~~
For purposes of this subsection, "Event" is defined as a period during which an Operating Condition Notice (OCN), or an Energy Emergency Alert (EEA), is in effect. During an Event when the system-wide offer cap is set to the LCAP, ERCOT must reimburse resource entities for any actual marginal reasonably and prudently incurred operating costs in excess of real-time revenues. ERCOT must utilize existing settlement processes to the extent possible to verify the resource entity's costs for reimbursement.

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CONCLUSION

For the foregoing reasons, Exelon respectfully requests that the Commission modify the proposed rule consistent with the above.

Respectfully submitted,

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On behalf of Exelon Generation Company, LLC